

W10

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF YAVAPAI

FILED
DATE: April 2, 2010
3:45 O'Clock P.M.
JEANNE HICKS, CLERK
BY: Rachel Roehe
Deputy

DIVISION: 6

JEANNE HICKS, CLERK

HON. THOMAS B. LINDBERG

By: Rachel Roehe, Deputy Clerk

CASE NO. P1300CR20081339

DATE: April 2, 2010

TITLE:

COUNSEL:

STATE OF ARIZONA

Yavapai County Attorney (e)

(Plaintiff)

(For Plaintiff)

vs.

STEVEN CARROLL DEMOCKER

John Sears (e)

(D-1)

Larry Hammond & Anne Chapman (e)

OSBORN MALEDON, P.A.

(For Defendant)

HEARING ON:

NATURE OF PROCEEDINGS

COURT REPORTER

Pending Motions

Roxanne Tarn

START TIME: 1:39 p.m.

APPEARANCES: Joseph Butner, Deputy County Attorney
Jeff Paupore, Deputy County Attorney
Michael Sechez, Investigator
Steven DeMocker, Defendant
John Sears, Counsel for Defendant
Larry Hammond, Counsel for Defendant
Anne Chapman, Counsel for Defendant
Rich Robertson, Investigator

This is the time set for the hearing on pending motions.

The Court provides a notice from a juror to all parties.

There being no objection, Juror number 252469 is excused.

Court and Counsel discuss a parting juror admonition.

Defense Counsel's request for a parting admonition is **GRANTED**. The Court will contact the Jury Commissioner and have a letter issued excusing the Juror number 252469 with a parting admonition.

Court and Counsel discuss Juror number 250670 with regard to the Juror's conduct.

The Court sets a hearing with regard to that juror for April 7, 2010, at 9:30 a.m. The Court will enter an order requiring that Juror 250670 shall be present.

The Court notes that the Jury Commissioner's office believes that 300 people will have filled out the questionnaire by the end of today.

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Court and Counsel discuss Jury Questionnaires.

Court and Counsel discuss the timing of the case.

Court and Counsel discuss the Jury selection process.

Discussion takes place with regard to the Motions received March 22 and April 1 regarding the witness, Alex Knapp. Defense Counsel requests to interview the witness with the mother present, and interview the mother as well.

The Court requests that Counsel provide the Court with an order directing Ms. Saxerud to be present on April 7, 2010, at 9:00 a.m. for a hearing on this issue.

Court and Counsel discuss the Defendant's family members being present during trial.

The Court precludes those persons who may testify from the siblings of Mr. Democker from being present here in Court. Any siblings that are not going to be called as witnesses may be present. The parents would be allowed in Court. The Court states that it applies the rule as it is written.

Court and Counsel discuss the exclusion of experts. Counsel suggest having computer and DNA experts available to both sides during testimony.

The Courts requests that both sides keep the other side informed of who they will anticipate in calling as witnesses the next day, so that preparation can be made for examination of the witnesses.

Court and Counsel discuss the Motion to Compel Sprint/Nextel to Provide Data.

The Court signs the three orders this date.

Court and Counsel discuss video conferencing at the jail.

Defense Counsel re-urges his motion to modify release conditions.

Counsel for the State requests time to investigate and respond appropriately to the issue of the video conferencing.

This issue may be taken up again at the hearing next Wednesday.

Counsel argue the Motion in Limine with regard to the preclusion of character evidence of James Knapp.

The Court states that Rule 608 refers to credibility of a witness and may be attacked or supported by evidence in the form of opinion or reputation, but is subject to the limitations set forth in Rule 608. Rule 608 states that evidence of truthful character is admissible after the character for truthfulness has been attacked by opinion or reputation evidence or otherwise. With regard to the precise terms of that, the Court understands that it is not Counsel's intention to bring in reputation or character evidence having to do with truthfulness. To the extent that they wish to bring in evidence, it is essentially with regard to possible third party culpability. The Court does not believe that it is Rule 608 material. To the extent that the State's Motion was relying on that, the Court will **DENY** the Motion in Limine. With regard to third party culpability evidence, the Court will hold the Defense to that standard.

The Court states that it has a pending motion asking the State to make a proffer with regard to its witnesses.

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The Court **DENIES** the motion at this time without ruling on the admissibility of the potential evidence from a 403/404/402 standpoint. With regard to simply the motion that was raised, it is **DENIED**.

Counsel argue the Defendant's Motion to Preclude Computer Forensic Experts and Reports as well as the Defendant's Motion to Preclude Evidence of Late Sorenson Laboratory Forensic Testing.

The Court states that it is not prepared to preclude the evidence at this time. The Court states that it would like to see some representation provided to the Defense that the materials provided are what they purport to be as the five years worth of audit materials. The Court requests that Counsel check whether the STR table materials are already disclosed or whether they still need to be produced. Further discussion on this issue will take place next Wednesday.

Further hearing in this matter is set for April 7, 2010, at 9:00 a.m.

The Court states that it will sign the order regarding Ms. Saxerud and the Court requests that the State have her served with the order.

END TIME: 3:45 p.m.

cc: VS (e)
Jury Commissioner
Dean Trebesch (Contract Administrator) (PD) (e)
Division 6 (calendar)
YCSO (e)
Christopher DuPont, Trautman DuPont PLC, 245 W Roosevelt, Ste. A Phoenix, AZ 85003,
Counsel for Victims Charlotte and Katherine DeMocker